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Hearing Date: **August 8, 2023, at
11:00 am in Courtroom 4, United
States Bankruptcy Court, 900
Market Street, Philadelphia, PA
19107**

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE:	Chapter 13 Proceeding
James B. Wall	
Debtor(s)	23-11984 AMC

**MOTION OF CITIZENS BANK, N.A. S/B/M TO CITIZENS BANK OF
PENNSYLVANIA FOR RELIEF OF FROM THE AUTOMATIC STAY AND FOR AN
IN-REM ORDER PURSUANT TO §362 (d)(4)**

AND NOW, comes secured Creditor, Citizens Bank, N.A. s/b/m to Citizens Bank of Pennsylvania (Movant) by and through its counsel, Mary F. Kennedy, and files this Motion for Relief from Stay of 11 U.S.C. § 362(a) and to Obtain an In-Rem Order as to the property located at 310 Robbins Street, Philadelphia, PA 19111 pursuant to §362 (d)(4) and avers the following.

1. On or about July 6, 2023, Debtor(s) filed a Chapter 13 Bankruptcy Petition.
2. On September 28, 2016 Debtor executed a Mortgage and Note to Citizens Bank of Pennsylvania in the amount of \$93,500.00 and secured by the property located at 310 Robbins Street, Philadelphia, PA 19111, referred to as the “property.” Said Mortgage was recorded on October 25, 2016 in the Philadelphia County Recorder of Deeds Office at Doc Id no. 53128966. (See Exhibit “A” attached).
3. The Debtor has filed three (3) bankruptcy petitions since September 27, 2019 that have delayed Movant’s mortgage foreclosure action. The bankruptcy cases are as follows:
 - a. 19-16078 AMC, Chapter 13, filed on September 27, 2019, dismissed on August 26, 2020,

- b. 22-11438 AMC, Chapter 13, filed on June 3, 2022, dismissed on February 15, 2023 for failure to make Plan payments,
 - c. 23-11984 AMC, Chapter 13, filed on July 6, 2023.
4. Movant commenced a mortgage foreclosure action in Philadelphia County on October 8, 2018 (October Term 2018, Case No. 000974). Judgement was entered on May 8, 2019. Since September 27, 2019, Movant's mortgage foreclosure action has been placed on hold three (3) times because of the Debtor's repeated bankruptcy filings.
 5. Movant had a sheriff's sale scheduled for October 1, 2019. That sale was stayed when the Debtor filed his first bankruptcy petition, case no. 19-16078 AMC, on September 27, 2019.
 6. After the dismissal the first bankruptcy case on August 26, 2020, Movant resumed its mortgage foreclosure action and a mortgage foreclosure sheriff's sale was scheduled for June 7, 2022 when the Debtor filed the second case, no. 22-11438 AMC, on June 3, 2022. That sale was stayed.
 7. After the dismissal the second bankruptcy case on February 15, 2023, Movant resumed its mortgage foreclosure action and a mortgage foreclosure sheriff's sale was scheduled for July 11, 2023 when the Debtor filed the third case, no. 23-11984 AMC, on July 6, 2023. That sale has been postponed to September 12, 2023.
 8. As of July 6, 2023, the amount needed to payoff Movant's mortgage lien was \$154,066.31.
 9. At the time this bankruptcy petition was filed the Debtor was contractually due for the June 3, 2018 to July 3, 2023 monthly mortgage payments. The total due was \$37,629.61.
 10. Movant has received no payments on this loan since August 3, 2020. This means that Debtor made no post-petition mortgage payments to Movant during his 2022 bankruptcy cases.
 11. The repeated bankruptcy filings by the Debtor just prior to Movant's scheduled sheriff's sales, his failure to make post-petition mortgage payments during his second bankruptcy cases and the significant contractual arrears demonstrate a "scheme to delay, hinder, and defraud" Movant.

12. Movant does not have, and has not been offered, adequate protection for its interest in the property.

WHEREFORE, Movant respectfully requests this Honorable Court ORDER:

1. That Relief from the Automatic Stay be granted to Citizens Bank, N.A. s/b/m to Citizens Bank of Pennsylvania so that Movant may proceed with the foreclosure action against the property located at 310 Robbins Street, Philadelphia, PA 19111 and to obtain all other Relief available under Non-Bankruptcy law;
2. That Citizens Bank, N.A. s/b/m to Citizens Bank of Pennsylvania is granted in rem relief for a period of one hundred eighty (180) days as to the property located at 310 Robbins Street, Philadelphia, PA 19111 pursuant to 11 U.S.C.A. section 362 (d)(4). Any future bankruptcy petitions filed by any party will not stay Citizens Bank, N.A. s/b/m to Citizens Bank of Pennsylvania for a period of one hundred eighty (180) days from proceeding with the mortgage foreclosure action with regard to the property located at 310 Robbins Street, Philadelphia, PA 19111;
3. That Bankruptcy Rule 4001(a)(3) is not applicable, and Movant is allowed to immediately proceed with foreclosure and all other relief available under the non-Bankruptcy law;
4. That Federal Rule of Bankruptcy Procedure 3002.1 is no longer applicable; and
5. Movant respectfully requests that reasonable attorney fees and costs associated with this Motion be awarded to Movant.

Respectfully Submitted,

/s/ Mary F. Kennedy

Dated: July 14, 2023